United States Patent Application

FAX RECEIVED
AUG 1 4 2003

COMBINED DECLARATION AND POWER OF ATTORNEY

PETITIONS OFFICE

As below named inventors, we declare that:

Our residences, post office addresses and citizenships are as stated below next to our names.

We believe that we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled: <u>DYNAMIC BANDWIDTH ALLOCATION</u>; as smended by Preliminary Amendment, dated September 15, 1999, Amendment and Response, dated June 2, 2000, and Preliminary Amendment, dated December 4, 2000.

We have reviewed and understand the contents of the above-identified specification and amendments, including the claims.

We acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 (see attached page 4).

We claim foreign priority benefits under 35 U. S.C. § 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on the basis of which priority is claimed.

Prior Foreign Ap Number(s	Country	Foreign Filing Date (MM/DD/YYYY	Priority Not Claimed	Certified Copy Attached

We claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

Application Number(s)

Filing Date (MM/DD/YYYY)

We claim the benefit under 35 U.S.C. § 120/365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose material information as defined in Title 37 C.F.R. § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. or PCT Application Number	Filing Date (MM/DD/YYYY)	Patent No.
08/673,002	June 28, 1996	,
08/650,408	May 20, 1996	_
08/457,295	June 1, 1995	
08/384,659	February 6, 1995	
08/457,317	June 1, 1995	

As named inventors, we appoint the following registered practitioners to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith, with full right of substitution:

Name	Registration Number	Name	Registration Number
Fogg David N.	Reg. No. 35,138	Polglaze, Daniel J.	Reg. No. 39,801
Leffert, Thomas W.	Reg. No. 40,697	Slifer, Russell D.	Reg. No. 39,838
Lundberg, Scott V.	Reg. No. 41,958	Walseth, Andrew C.	Reg. No. 43,234
Myrum, Tod A.	Reg. No. 42.922		

Attorney Docket No. 100.070US13

Filed: September 15, 1999

Page I of 4

Serial No. 09/397,443



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We declare that all statements inside hereis of our own incovieties are true and that all statements made on information and belief are believed to be use; and further that these gatemans were made with the knowledge that willful false statements and the like so made are principally by fine or imprisonment, or both, under Section 1001 of fule 18 of the United States Code and that rech willful false statements may journize the validity of the application of any parates insent themson. Inventor No. 1 Inventor No. 1		•		Pax (512) 252-00		·	
be tree, and further that these statements were made with the knowledge that willful false statements and the like so made are possibable by fine or imperiorument, or both, under Section 1001 of Title 18 of the United States Code and that reach willful false statements may journarize the validity of the neplication or one youther journarize the validity of the neplication or one youther journarize the validity of the neplication or one youther journarize the validity of the neplication or one youther youther you have first and Middle [if any]) Pamily Name or Surname Pamily Name or Sur		•			•		-	
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imptionment, or both, under Section 1001 of Title 18 of the United States Code and that rock willful false statements may joopardize the validity of the application or my parts insued thereon. Laventor No. 1 Given Name (First and Middle [if any]) MICHAEL 1. Inventor's Signature Residence: City Batavia State OH Zip 45103 Country USA Citizenship USA Laventor No. 2 Given Name (First and Middle [if any]) Brill No. Laventor No. 2 Given Name (First and Middle [if any]) Brill No. Laventor's Signature Residence: City Plymouth State OH Zip 45103 Country USA Laventor No. 2 Given Name (First and Middle [if any]) Brill No. Laventor's Signature State MN Zip 55442 Country USA Laventor No. 3 Given Name (First and Middle [if any]) Family Name or Surname Brill No. Laventor's Signature BREDE Laventor's Signature BREDE Laventor's Signature Signature Signature Signature South State MN Zip 55347 Country USA Laventor No. 4 Given Name (First and Middle [if any]) Family Name or Surname BREDE Laventor's Signature	he most and further	that these statements were a	nade with	the knowled	lge that willfi	ul false statements and the	like so made are p	mishable by fine or
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Attorney Docket No. 100.070US13 Filed: September 15, 1999 Page 2 of 4

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§ 1.56 Duty to disclose information material to patentability.

- (a) A parent by its very name is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:
 - (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
 - (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information committed therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
 - (1) it establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) it refutes, or is inconsistent with, a position the applicant takes in:
 - (i) opposing an argument of unpatentability relied on by the Office, or
 - (ii) asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, hurden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or procecution of a patent application within the meaning of this section are:
 - (1) Each inventor named in the application:
 - (2) Each attorney or agent who prepares or prosecutes the application; and
 - (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assigned or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (c) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.